

OPINIONS AND DECLARATIONS RENDERED BY THE INTER- NATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

Edited by

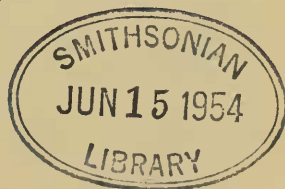
FRANCIS HEMMING, C.M.G., C.B.E.

Secretary to the Commission

VOLUME 4. Part 19. Pp. 221—230

OPINION 229

Acceptance of the lectotype selected by Lydekker (1891)
for the nominal species *Dinornis novaezealandiae* Owen,
1843 (Class Aves)



LONDON :

Printed by Order of the International Trust for
Zoological Nomenclature
and

Sold on behalf of the International Commission on Zoological
Nomenclature by the International Trust at its Publications Office
41, Queen's Gate, London, S.W.7
1954

Price Three Shillings and Ninepence

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INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

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OPINION 229

ACCEPTANCE OF THE LECTOTYPE SELECTED BY
LYDEKKER (1891) FOR THE NOMINAL SPECIES
"DINORNIS NOVAEZEALANDIAE" OWEN,
1843 (CLASS AVES)

RULING :—(1) Lydekker (1891) acted in strict conformity with Article 31 of the *Règles* when he selected from among the three syntypes of the nominal species *Dinornis novaezealandiae* Owen, 1843 (Class Aves) the tibio-tarsus (t2) to be the lectotype of the foregoing nominal species.

(2) In view of (1) above, the specific name *ingens* Owen, 1844, as published in the combination *Dinornis ingens*, is an objective junior synonym of the name *novaezealandiae* Owen, 1843, as published in the combination *Dinornis novaezealandiae*, since the holotype of the former is the same specimen as the lectotype of the latter.

(3) The under-mentioned specific names are hereby placed on the *Official List of Specific Names in Zoology* as Names Nos. 39 and 40 :—(a) *novaezealandiae* Owen, 1843, as published in the combination *Dinornis novaezealandiae* and as determined under (1) above; (b) *struthoides* Owen, 1844, as published in the combination *Dinornis struthoides*.

(4) The specific name *ingens* Owen, 1844, as published in the combination *Dinornis ingens*, is hereby placed on the *Official Index of Rejected and Invalid Specific Names in Zoology* as Name No. 11.

I.—THE STATEMENT OF THE CASE

In May 1939 Dr. C. W. Stiles, former Secretary to the International Commission, received an undated letter signed by Dr. Gilbert Archey (*Director, Auckland Institute and Museum,*

Auckland, New Zealand) and Dr. R. S. Allan (Canterbury University College, Christchurch, New Zealand), asking for a ruling on the specimen to be accepted as defining the nominal species *Dinornis novaezealandiae* Owen, 1843 (Class Aves). This letter was forwarded to Mr. Francis Hemming who had succeeded Dr. Stiles as Secretary to the Commission. This case was given the Registered Number Z.N.(S.) 136. After correspondence between the Secretary and Drs. Allan and Archey on questions of presentation and form, this application was finally settled in a letter dated 25th September 1939 received from the applicants not long after the outbreak of war in Europe. The application so settled was as follows :—

**On the type of “*Dinornis novae-zealandiae*” Owen,¹
1843 (Class Aves, Order Dinornithiformes)**

by GILBERT ARCHEY

(Director, Auckland Institute and Museum, Auckland, New Zealand),

and

R. S. ALLAN

(Canterbury University College, Christchurch, New Zealand)

We are writing to ask for a ruling or an *Opinion* from the Commission as to what specimen should be regarded as the type of Owen's species *Dinornis novae-zealandiae*, in connection with which we give the four relevant references as follows :—

(1) In July 1843, *Proc. zool. Soc. Lond.* **11** (120) : 8, 10, Owen published the name *Dinornis novae-zealandiae*, the species being based on a femur, a tibio-tarsus and a tarso-metatarsus described in that order.

These three specimens are the co-types, and are the f12 (femur), t2 (tibia) and m3 (metatarsus) of No. (3) below.

¹ At the time when this application was submitted, its authors inserted a hyphen between the two portions of this compound specific name, this being the way in which it had been published by Owen. At Paris in 1948 the Thirteenth International Congress of Zoology amended Article 15 by deleting therefrom the option under which authors had till then been free to connect with a hyphen the two portions of a compound name (1950, *Bull. zool. Nomencl.* **4** : 197—198). In accordance with the foregoing decision, the specific name here dealt with is printed in the Ruling given in the present *Opinion* as a single word without a hyphen—thus, as *novaezealandiae*. The hyphen has, however, been retained in printing the application reproduced in paragraph 1 of the present *Opinion* and in the comment by Dr. Joshua L. Baily printed in paragraph 5, since both these documents were written before the foregoing decision was taken by the Paris Congress and in each of them the authors concerned had employed a hyphen in citing the specific name, thus referring to it as “*novae-zealandiae*”.

(2) In March 1844, *Proc. zool. Soc. Lond.* 11(129) : 144, Owen published the names *Dinornis struthoides* and *Dinornis ingens*, both *nomina nuda*.

(3) In June 1844, *Trans. zool. Soc. Lond.* 3(3) : 244—249, Owen published in full the paper of which No. (2) above was a preliminary notice.

He ignored his earlier proposal of *Dinornis novae-zealandiae* and described instead two species :—

page 244. *Dinornis struthoides*, the holotype of which is the metatarsus m3.

page 247. *Dinornis ingens*, the holotype of which is the tibiotarsus t2.

On page 249 he referred the femur f12 to *Dinornis struthoides*. It was not, however, a co-type of *Dinornis struthoides*.

(4) In 1891, Lydekker, *Cat. foss. Birds Brit. Mus.* : 224, employed the name *Dinornis novaezealandiae*, and on page 224, footnote, and again on page 227 designated the tibia t2 (type of *Dinornis ingens* Owen) as the lectotype of *Dinornis novae-zealandiae* Owen.

On page 244 he cited *Dinornis struthoides* Owen, accepting the tarso-metatarsus m3 as its type.

The point at issue is whether Owen's designation of the tarso-metatarsus m3 as the type of *Dinornis struthoides*, and of the tibiotarsus t2 as the type of *Dinornis ingens*, invalidates Lydekker's subsequent selection of t2 as the lectotype of *Dinornis novae-zealandiae* Owen.

II.—THE SUBSEQUENT HISTORY OF THE CASE

2. By the time that the present application was received in its final form the records of the International Commission had been evacuated from London as a precaution against the risk of destruction through air raids in the war in which Great Britain had then become involved. The Secretariat in London was re-opened in 1942, and steps were immediately taken to establish the *Bulletin of Zoological Nomenclature* as a means for bringing to the attention of zoologists applications submitted to the International Commission for decision. Work was at once started on outstanding applications with a view to arranging for their publication in the newly established *Bulletin*. The present application was sent to the printer in October 1944, but, owing

to difficulties arising from paper rationing, shortage of labour at the printing works and similar causes, publication did not actually take place until 31st March 1947 (Archey & Allan, 1947, *Bull. zool. Nomencl.* **1** : 257).

3. *Comment by Dr. Karl Jordan (British Museum (Natural History) Zoological Museum, Tring, Herts, England)* : Shortly before the present application was sent to the printer, there was an exchange of correspondence in regard to it between the Secretary and Dr. Karl Jordan (*British Museum (Natural History) Zoological Museum, Tring, Herts, England*), at that time President of the International Commission. In a letter dated 19th September 1944, Dr. Jordan wrote :—

The name *Dinornis novaezealandiae* Owen, 1843, cannot simply be left on one side. The species so named is the type species of the genus *Dinornis*. No type specimen having previously been selected for this species, Lydekker's action was in order.

4. *Issue of Public Notices* : Although it appeared unlikely that the International Commission would find it necessary or desirable to use its Plenary Powers in the present case, it was decided in 1947 that, as an insurance against such a contingency, it would be advantageous to take this possibility into account, having regard to the fact that at that time the issue raised by the present application was of a novel character and the meaning of the Article (Article 31) of the *Règles* involved was far from clear. Accordingly, on 29th September 1947 a notice of the possible use, by the International Commission on Zoological Nomenclature, of its Plenary Powers in the present case was issued to the serial publications specified by the Ninth International Congress of Zoology, Monaco, 1913. The publication of this notice elicited one comment which is given in the immediately following paragraph.

5. *Comment by Dr. Joshua L. Baily, Jr. (San Diego, California, U.S.A.)* : The following comment was received from Dr. Joshua L. Baily, Jr. (*San Diego, California, U.S.A.*) under cover of a letter dated 13th December 1947 :—

As stated, the solution of this problem seems quite clear to me. Owen had before him in 1844 three specimens designated as f12, t2 and m3. To these he gave three names—*D. novae-zealandiae*, which he had already published in 1843, *D. struthoides*, and *D. ingens*.

If the three specimens are con-specific, the correct name will be *D. novae-zealandiae*, since this was the first name given.

The fact that in 1843 he designated the three specimens as co-types indicates that Owen considered them at first to be con-specific, but the fact that he subsequently published the names *D. struthoides* and *D. ingens* and designated as their respective holotypes m3 and t2 shows that he later changed his mind. Further, his choice of holotypes constitutes presumptive evidence that Owen thought it would automatically follow that f12 would become the holotype of *D. novae-zealandiae*. But according to the Rules a presumptive intention is not sufficient for the establishment of a type specimen; Owen should have stated definitely that f12 was the type specimen of *D. novae-zealandiae* if such was his intention. But he did not do so, and this failure left the door open for Lydekker who designated f2 as the type specimen of *D. novae-zealandiae*. This action makes *D. ingens* and *D. novae-zealandii* identical synonyms, since they have a common type specimen, and the name *D. ingens* must be discarded since it has no priority, and f12 if not con-specific must be given a new name.

But it might be desirable to retain Owen's three names for the three species for which he intended them, if this custom had been established by long usage. This could not, however, be done without suspension of the Rules. Whether suspension would be justified is a question that would have to be answered by the paleornithologists. My point is that Owen's failure to designate a holotype or, later, to select a lectotype for *D. novae-zealandiae* makes it impossible to carry out his obvious intention without suspension of the Rules.

III.—THE DECISION OF THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

6. One of the earliest acts of the International Commission on Zoological Nomenclature at its Paris Session was to revise and clarify the provisions of Article 31 relating to the selection of lectotypes for nominal species (Paris Session, 4th Meeting, Conclusion 11) (1950, *Bull. zool. Nomencl.* 4 : 73—76)¹. It was in the light of the decision of principle so taken that the International Commission considered the problem submitted by Dr. Archey and Dr. Allan at the Fourteenth Meeting of its Paris Session held

¹ The provisions of Article 31 were further reviewed and amended by the Fourteenth International Congress of Zoology at Copenhagen in 1953. The changes so made (1953, *Copenhagen Decisions zool. Nomencl.* : 72—78) did not however in any way affect the interpretation of that Article given by the International Commission in the present case at Paris in 1948.

at the Sorbonne in the Amphithéâtre Louis-Liard on Monday, 26th July 1948 at 2030 hours. The following is an extract from the Official Record of the Proceedings of the International Commission setting out the decision reached by it in regard to this case at the foregoing meeting (Paris Session, 14th Meeting, Conclusion 14) (1950, *Bull. zool. Nomencl.* 4 : 448—450) :—

THE COMMISSION agreed :—

- (1) that Lydekker (1891) did not act in contravention of Article 31 when he selected from among the three syntypes of the nominal species *Dinornis novaezealandiae* Owen, 1843, the tibio-tarsus (t2) to be the lectotype of that species and consequently the foregoing lectotype selection, being the first to have been made under Article 31, was valid under the *Règles*;
- (2) that, in view of (1) above, the trivial name *ingens* Owen, 1844 (published in the binominal combination *Dinornis ingens*), being the trivial name of a nominal species of which the specimen referred to in (1) above was the holotype, was an objective synonym of the older trivial name *novaezealandiae* Owen, 1843 ;
- (3) to place the undermentioned trivial names on the *Official List of Specific Trivial Names in Zoology* :—
 - novaezealandiae* Owen, 1843 (as published in the binominal combination *Dinornis novaezealandiae*), determined in the manner specified in (1) above ;
 - struthoides* Owen, 1844 (as published in the binominal combination *Dinornis struthoides*) ;
- (4) to place the trivial name *ingens* Owen, 1844 (as published in the binominal combination *Dinornis ingens*), on the *Official Index of Rejected and Invalid Specific Trivial Names in Zoology* ;
- (5) to render an *Opinion* recording the decisions specified in (1) to (4) above.

7. The following are the original references for the names which appear in the decision set out in the immediately preceding paragraph :—

ingens, *Dinornis*, Owen, 1844, *Trans. zool. Soc. Lond.* 3(3) : 247
novaezealandiae, *Dinornis*, Owen, 1843, *Proc. zool. Soc. Lond.*

11(120) : 8, 10

struthoides, *Dinornis*, Owen, 1844, *Trans. zool. Soc. Lond.* 3(3) : 244

8. The decision taken in the present case was reported to, and approved by, the Section on Nomenclature of the Thirteenth International Congress of Zoology, Paris, 1948, at its Sixth Meeting held on 26th July 1948 (1950, *Bull. zool. Nomencl.* 5 : 113—114).

9. The Ruling given in the present *Opinion* was concurred in by the sixteen (16) Commissioners and Alternate Commissioners present at the Paris Session of the International Commission, namely :—

Beltrán *vice* Cabrera ; Boschma ; Bradley ; di Caporiacco ; Hemming ; Hindle *vice* Jordan ; Jorge *vice* do Amaral ; Kirby *vice* Stoll ; Lemche *vice* Dymond ; Mansour *vice* Hankó ; Metcalf *vice* Peters ; Riley *vice* Calman ; Rode ; Spärck *vice* Mortensen ; van Straelen *vice* Richter ; Usinger *vice* Vokes.

10. The Ruling given in the present *Opinion* was dissented from by no Commissioner or Alternate Commissioner present at the Paris Session.

11. At the time of the adoption of the Ruling given in the present *Opinion*, the expression prescribed for the second portion of the binomen which constitutes the scientific name of a species was the expression “ trivial name ” and the *Official List* reserved for recording such names was styled the *Official List of Specific Trivial Names in Zoology*, the word “ trivial ” appearing also in the title of the *Official Index* reserved for recording rejected and invalid names of this category. Under a decision taken by the Fourteenth International Congress of Zoology, Copenhagen, 1953, the expression “ specific name ” was substituted for the expression “ trivial name ” and corresponding changes were made in the

titles of the *Official List* and *Official Index* of such names (1953, *Copenhagen Decisions zool. Nomencl.*: 21). The changes in terminology so adopted have been incorporated in the Ruling given in the present *Opinion*.

12. The prescribed procedures were duly complied with by the International Commission on Zoological Nomenclature in dealing with the present case, and the present *Opinion* is accordingly hereby rendered in the name of the said International Commission by the under-signed Francis Hemming, Secretary to the International Commission on Zoological Nomenclature, in virtue of all and every the powers conferred upon him in that behalf.

13. The present *Opinion* shall be known as *Opinion Two Hundred and Twenty-Nine* (229) of the International Commission on Zoological Nomenclature.

DONE in London this Fifth day of December, Nineteen Hundred and Fifty-Three.

*Secretary to the International Commission
on Zoological Nomenclature*

FRANCIS HEMMING